

**VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN
(Official Minutes)**

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION
and JOINT SESSION with JOINT EXTRATERRITORIAL ZONING COMMITTEE
(Village of Fontana, Town of Linn, Town of Walworth)
Monday, August 26, 2013

ETZ Committee Chairman/Plan Commissioner Micki O'Connell called the monthly meeting of the Plan Commission to order and the ETZ Committee meeting to order at 5:30 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll call: Micki O'Connell, Scott Vilona, President Arvid Petersen, F.J. Frazier (arrived at 5:32 pm)

Plan Commissioners absent: Trustee George Spadoni, Cynthia Nickolai, Sarah Lobdell

ETZ Committee members present: Village of Fontana representatives Micki O'Connell, Scott Vilona; Town of Walworth representatives Ken Magowan, Jim van Dreser, Thomas Rohleder; Town of Linn representatives Larry Aasen, William Bentley, John Zils

ETZ Committee member absent: Village of Fontana representative Sarah Lobdell

Also present: Administrator/Treasurer Kelly Hayden, Merilee Holst, Maria Klesmith, Clerk Dennis Martin, Building Inspector/Zoning Administrator Ron Nyman, Trustee Rick Pappas, Mike Slavney, Dale Thorpe

Visitors Heard

Fontana resident Mark Robinson stated that he and his wife and sons were attending the meeting to fulfill Boy Scout Merit Badge requirements for citizenship and government.

Announcements

1. Lakefront and Harbor Committee Meeting – **Wednesday, August 28, 2013, 4:30 pm**
2. Pig in the Park Fund-Raising Event in Reid Park – **Saturday, August 31, 2013, 4:00 pm**
3. Village Board Monthly Meeting – **Monday, September 9, 2013, 6:00 pm**
4. Fontana/Walworth Water Pollution Control Commission Meeting – **Tuesday, September 10, 2013, 7:30 pm**
5. GLLEA Monthly Board Meeting – **Wednesday, September 11, 2013, 10:00 am**
6. Public Works Committee Meeting – **Saturday, September 14, 2013, 8:00 am**
7. Protection Committee Meeting – **Monday, September 16, 2013, 5:30 pm**
8. Library Board Meeting – **Wednesday, September 18, 2013, 10:00 am**
9. Plan Commission Staff Meeting – **Wednesday, September 18, 2013, 1:00 pm**
10. Park Commission Meeting – **Wednesday, September 18, 2013, 6:00 pm**
11. GLEA Board Meeting – **Thursday, September 19, 2013, 7:00 pm**
12. Finance Committee Budget Meeting – **Monday, September 30, 2013, 5:00 pm**

Approve Plan Commission/Joint ETZ Committee Minutes

Walworth Township representative Magowan/Walworth Township representative van Dreser 2nd made a MOTION to approve the Joint ETZ Committee meeting minutes for July 29, 2013, as presented, and the MOTION carried without negative vote.

President Petersen/Commissioner Vilona 2nd made a MOTION to approve the Plan Commission meeting minutes for July 29, 2013, as presented, and the MOTION carried without negative vote.

Joint Session Public Hearing

Proposed Amendments to ETZ Zoning Ordinance

O'Connell stated that the public hearing was open at 5:33 pm. Village Planner Mike Slavney stated that the proposed amendments to the ETZ Zoning Ordinance are outlined in an August 12, 2013

memorandum that was distributed for the meeting. Slavney stated that the amendments were drafted to reorganize and reformat the ETZ ordinance to match the new Village of Fontana zoning ordinance, and to update the ETZ ordinance to match the Walworth County zoning districts. Slavney stated that the permitted uses in the individual zoning districts were updated, with low impact uses listed as permitted uses by right, and high impact uses listed as authorized by conditional use permit. Slavney stated that state statutes require that permitted uses have to be included in all zoning districts and some of the ETZ districts did not feature any uses by right. Slavney stated that when drafting the August 12, 2013 memo that outlines the proposed changes to the ETZ ordinance, he discovered that three more amendments should be considered. Slavney stated that the Section 18-546 – B-4 ETZ, has a requirement that adult entertainment uses maintain a minimum building separation of 750 feet from residential zoning districts, but there is no location within the ETZ District that meets that requirement; so the section needs to be amended to be defensible in court if a lawsuit were filed. Thorpe stated that the approval requirements for adult entertainment uses can be made very restrictive; however, the requirements cannot be so restrictive that there is no possible location that could be approved. ETZ Committee member van Dreser stated that the Walworth County zoning code had to be written with the same concern in mind to avoid any potential lawsuits if an adult entertainment proposal were denied. Slavney stated that he also noted two other errors in the ETZ ordinance when drafting the memo:

1. The Section 18-542(a), P-2, ETZ district is missing a Description and Purpose. Here is the suggested language which matches the Description and Purpose used for the P-2 district in the Walworth County Zoning Ordinance: *“Description and Purpose. The P-2 district is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public purpose is anticipated to be permanent.”*
2. In Section 18-535(m), the minimum average lot width for the A-5, ETZ district is currently listed at 100 feet. However, we recommend correcting this regulation to 125 feet so as to be more consistent with the regulation for the A-5 district in the Walworth County Zoning Ordinance. Note that the minimum average lot width in the current A-5, ETZ District is 300 feet (which seems to be a typo).

Thorpe stated that the three additional amendments suggested by Slavney would have to be noticed and presented at another public hearing if favored by the ETZ Committee and Plan Commission members. The public hearing was closed at 5:40 pm.

Joint Session Business

Plan Commission Recommendation on Proposed Amendments to ETZ Zoning Ordinance
Commissioner Vilona/Commissioner Frazier 2nd made a MOTION to recommend approval of the proposed amendments to the ETZ Zoning Ordinance, as presented, and the MOTION carried without negative vote.

President Petersen/Commissioner Vilona 2nd made a MOTION to schedule a public hearing for Monday, September 23, 2013 beginning at 5:30 pm to consider the additional proposed amendments to ETZ Zoning Ordinance Sections 18-546, 18-542(a) and 18-535(m), as presented in the August 12, 2013 memorandum from Planner Mike Slavney. The MOTION carried without negative vote.

ETZ Committee Recommendation on Proposed Amendments to ETZ Zoning Ordinance

Town of Walworth representative van Dreser/Town of Linn representative Zils 2nd made a MOTION to recommend approval of the proposed amendments to the ETZ Zoning Ordinance, as presented, and the MOTION carried without negative vote.

Town of Walworth representative Magowan/Town of Linn representative Bentley 2nd made a MOTION to schedule a public hearing for Monday, September 23, 2013 beginning at 5:30 pm to consider the additional proposed amendments to ETZ Zoning Ordinance Sections 18-546, 18-542(a) and 18-535(m), as presented in the August 12, 2013 memorandum from Planner Mike Slavney. The MOTION carried without negative vote.

Adjournment ETZ Committee

Town of Linn representative Bentley/ Town of Linn representative Aasen 2nd made a MOTION to adjourn the ETZ Committee meeting at 5:40 pm, and the MOTION carried without negative vote.

Plan Commission Public Hearings

ETZ CUP Application Filed by Maria Klesmith for Proposed Holy Theophany Orthodox Chapel, N2107 Highway 67, Walworth Township

The public hearing was opened at 5:45 pm. Maria Klesmith stated that she was seeking authorization to have a sign erected at the site that has been hosting Sunday morning services for the Holy Theophany Orthodox Chapel. Klesmith stated that the site is owned by her parents and there are no new building plans at this time. The hearing was closed at 5:47 pm.

ETZ CUP Amendment Application Filed by Tim Wichman/Faulk & Foster for US Cellular to Add Antenna to Existing Tower on Stewart Property, 202 W. Main Street

The public hearing was opened at 5:49 pm and closed at 5:49 pm after no comments were made.

Plan Commission Business

Recommendation on ETZ CUP Application Filed by Maria Klesmith for Proposed Holy Theophany Orthodox Chapel, N2107 Highway 67, Walworth Township

The staff report states the proposed church is allowed in the A-1 ETZ District with the approval of a conditional use permit. The proposed signage complies with the current code, and includes a monument sign with down lighting. A building, zoning and electrical permit will also be required. The driveway should be large enough to accommodate two car widths, and parking should accommodate one parking space per three seats. The applicant noted that the current congregation is relatively small and the church prefers to install a smaller parking area now with the understanding that as the congregation grows parking facilities should be expanded as necessary. Staff recommends approval with the condition that they continue to meet all zoning requirements of the district.

President Petersen/Commissioner Frazier 2nd made a MOTION to recommend Village Board approval of the Conditional Use Permit application for the proposed Holy Theophany Orthodox Chapel, N2107 Highway 67, Walworth Township, with the condition that the applicant continues to meet all zoning requirements of the A-1 ETZ District. The MOTION carried without negative vote.

Recommendation on ETZ CUP Amendment Application Filed by Tim Wichman/Faulk & Foster for US Cellular to Add Antenna to Existing Tower on Stewart Property, 202 W. Main Street

The staff report states the proposed alterations (adding antennas to the existing cell tower) is allowed in the AH-35 ETZ District, contingent upon approval of a conditional use permit and site plan. Staff recommends approval of the CUP amendment, provided the applicant continues to meet all zoning requirements of the district, and with the following three conditions:

1. The owner of the facility shall certify in writing, after construction, that the new installation was installed per the assumptions stated in the structural analysis report.
2. A complete submittal for building and zoning permits shall be applied for and issued prior to the commencement of construction of and/or installation of any antennas, cables, and equipment boxes, etc. CUP approval shall not alleviate the applicant from securing all required permits. Note: Zoning permits shall be obtained from the Village of Fontana; building permits shall be obtained from the Town of Walworth.
3. All outstanding cost recovery fees billed to date applicable to this project shall be paid prior to the issuance of any zoning permits. This condition does not alleviate the applicant from any cost recovery fees not yet billed.

President Petersen/Commissioner Frazier 2nd made a MOTION to recommend approval of the CUP application as filed by Tim Wichman/Faulk & Foster for US Cellular to authorize the addition

of antenna to the existing tower on the Stewart property, 202 W. Main Street, with the conditions that the owner of the facility shall certify in writing, after construction, that the new installation was installed per the assumptions stated in the structural analysis report; that a complete submittal for building and zoning permits shall be applied for and issued prior to the commencement of construction of and/or installation of any antennas, cables, and equipment boxes, etc. CUP approval shall not alleviate the applicant from securing all required permits. Note: Zoning permits shall be obtained from the Village of Fontana, and building permits shall be obtained from the Town of Walworth; and that all outstanding cost recovery fees applicable to this project shall be paid prior to the issuance of any zoning permits. The MOTION carried without negative vote.

Reschedule Request for September 2013 Meeting Date – Monday, September 23, 2013

The Finance Committee had to schedule a 2014 budget planning meeting for Monday, September 30, 2013, so staff requested that the Plan Commission consider rescheduling its monthly meeting date to one week earlier.

President Petersen/Commissioner Frazier 2nd made a MOTION to reschedule the September 2013 monthly meeting to Monday, September 23, 2013 beginning at 5:30 pm, and the MOTION carried without negative vote.

Zoning Code Ordinance Review of Lakefront Residential Zoning District Accessory Building Restrictions

Thorpe stated that he distributed at the meeting a memorandum and copies of the third draft of the recently rewritten zoning code, which was initially issued in October 2011. Thorpe stated that the provisions called for in the draft were later taken out of the rewritten zoning code at the direction of the Village Board. O'Connell stated that since Trustee Spadoni was making most of the comments on the issue at the last meeting, the matter should be tabled until he is in attendance.

President Petersen/Commissioner Frazier 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

Zoning Code Ordinance Amendment Proposal to Authorize Lakefront Commercial District Temporary Canopies on Shoreyard Lots

Thorpe stated that the Village Board approved a motion at its July 1, 2013 meeting to direct staff to immediately start the process of amending the zoning code so as to allow for sunshades to be erected as attachments to structures in the shoreyard, subject to a size limitation of 150 square feet and with the conditions that such sunshades are in support of a principle commercial use, and that such sunshades are seasonal in use and dismantled at the end of the season, and with such other conditions that the Village may consider; and to direct staff to forego zoning code enforcement as to such a use during this summer while a code change is being considered and voted on. Thorpe stated that he drafted and distributed the proposed ordinance amendment language with a memo dated August 5, 2013. Thorpe stated that if approved the amendments to Sections 18-92, 18-110(d)(3) and 18-110(d)(6)e will authorize limited opportunities for Lakefront Commercial District property owners to put up seasonal canopies or sunshades on existing structures. O'Connell asked the other Plan Commission members if they have seen the area with the canopy erected on the Gordy's lakefront parcel, and stated that she thinks it looks too cluttered. Petersen stated that he has observed the canopy and he does not have any objections. O'Connell stated that the item should also be tabled since it was initiated by Spadoni, who was absent, and she made a motion to table the item; however, the motion did not receive a second. Petersen stated that the proposed amendment language reflects the previously approved Village Board motion and there is no need to delay the scheduling of the required public hearing. Vilona asked if "season" is defined in the proposed amendment language. Thorpe replied that it is covered in Section 18-110(d)(6)e that states the temporary canopies must be removed between September 15 and the following May 15, so they would be allowed from May 16 to September 14.

President Petersen/Commissioner Vilona 2nd made a MOTION to schedule a public hearing for Monday, September 23, 2013 beginning at 5:30 pm to consider the proposed amendments to Sections 18-92, 18-110(d)(3) and 18-110(d)(6)e, and the MOTION carried without negative vote.

Abbey Springs Water Main Project Easement and Land Acquisition Authorization

Thorpe stated that state statutes require the Plan Commission to make a recommendation for the Village Board to acquire or sell land, and to grant or acquire an easement. The purchase of a parcel of land and easement agreements are needed to complete the Abbey Springs Water Main project, which includes the construction of a new standpipe and the abandonment of the current water main line that runs under the golf course. Hayden stated that following recent negotiation meetings with the property owners, staff has a proposal to present to the Village Board. Hayden stated that the proposal is to purchase a parcel of land and acquire an easement from the Bates family. Hayden stated that the Village will also have to acquire easements from the Abbey Springs Association and from the owners of the Fox Farms property. The land purchase from the Bates family and the easements are necessary to develop a 30-foot-wide access road off Academy Road along the north lot line of the Bates parcel that will lead to the 150-by-175-square-foot site of the new standpipe. President Petersen/Commissioner Frazier 2nd made a MOTION to recommend approval of the land acquisition and easement agreements with the Bates family for the Abbey Springs Water Main Project, and the MOTION carried without negative vote.

Adjournment Plan Commission

President Petersen/Commissioner Vilona 2nd made a MOTION to adjourn the Plan Commission meeting at 6:02 pm, and the MOTION carried without negative vote.

Minutes prepared by: Dennis L. Martin, Village Clerk

Note: These minutes are subject to further editing. Once approved by the Plan Commission and Joint ETZ Committee, the official minutes will be on file at the Village Hall.

APPROVED: 9/23//2013 – Plan Commission & Jt. ETZ Committee